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Paper No. 15

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JUN 28 2004

OFFICE OF PETITIONS

In re Application of	:	
King Sheng Wang	:	
Application No. 09/812,853	:	
Filed: March 21, 2001	:	DECISION ON RENEWED
Title: TILTING SUPPORT DEVICE	:	PETITION UNDER 37 C.F.R. §1.137(b)
HAVING DAMPING DEVICE	:	

This is a decision on the renewed petition under 37 CFR 1.137 (b)¹, filed June 9, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due (notice), mailed July 2, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees². Accordingly, the above-identified application became abandoned on October 3, 2003. A Notice of Abandonment was mailed November 11, 2003.

On March 23, 2004, Petitioner submitted the original petition under 37 C.F.R. §1.137(a), which was dismissed via the mailing of a decision on April 15, 2004.

With the instant petition, petitioner has included both the publication fee, \$650 towards the issue fee, and has made the proper statement of unintentional delay. The petition fee was submitted

¹ A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

² See MPEP §710.02(e).

previously on March 29, 2004.

The previous decision indicated that the petitioner had mistakenly paid for a petition under 37 C.F.R. §1.137(b), and was entitled to a refund. As the Petitioner has since filed a petition under this section, obviously a refund is no longer due. Accordingly, that portion of the previous decision is hereby **VACATED**.

Petitioner has thus met requirements (2) – (3) above. The fourth requirement does not apply. Regarding the first requirement, Petitioner has not submitted the required reply. Petitioner submitted \$650 as payment of the issue fee, as this was the amount indicated on the copy of the Notice of Allowability and Issue Fee due, which was included with the previous decision. Unfortunately, on October 1, 2003, issue fees were raised to \$665.00. The omission of that information from the previous decision was a regrettable oversight.

As such, Petitioner will need to submit the remaining \$15 which is owed, before this application may be forwarded to the Office of Patent Publications for processing into a patent.

Therefore, the petition must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition Under 37 C.F.R. §1.137(b)." This is not a final agency action within the meaning of 5 U.S.C 704.

The second renewed petition should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location.

Any renewed petition may be submitted by mail³, hand-delivery⁴, or facsimile⁵.

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.



**Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office**

End.

³ Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

⁴ Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

⁵ (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned.